

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed July 6, 2004. Upon entry of the amendments in this response, claims 1 – 70 remain pending. Reconsideration and allowance of the application and presently pending claims are respectfully requested. In addition, Applicants do not intend to make any admissions regarding any other statements in the Office Action that are not explicitly referenced in this response.

I. Objections to the Drawings

The Office Action indicates that the drawings are objected to because several of the drawings are not in accordance with 37 CFR 1.84(p)(3) because the font size is too small. The Office Action also indicates that 15A, 15B, 16A and 16B should replace 15a, 15b, 16a and 16b in accordance with 37 CFR 1.84(u)(1). In response, Applicant has amended the drawings to comply with 37 CFR 1.84(p)(3), 37 CFR 1.84(u)(1), and the Office Action's request.

II. Objections to the Specification

The Office Action indicates that the specification is objected to because it must be amended to include the view number 15A, 15B, 16A and 16B. In response, Applicant has amended the specification to comply with the Office Action's request. More specifically, Applicant has amended page 10, beginning on line 9, page 30, beginning on line 14, and page 31, beginning on line 16.

III. Rejections Under 35 U.S.C. §102

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983).

A. Claim 1 is Patentable Over Majeti

The Office Action indicates that claims 1 – 70 stand rejected under 35 U.S.C. §102(b) as being anticipated by European patent number EP 0742 658 A2 to Majeti, et al. (“*Majeti*”).

Applicants respectfully traverse this rejection on the grounds that the *Majeti* reference does not disclose, teach, or suggest all of the claimed elements. As recited in Claim 1:

A Carrier network for providing communication between multiple users and a Service Provider, comprising... (b) **software** for managing network access of the users across said shared communications medium, said software including computer-executable instructions that performs the steps of: (i) monitoring the network access usage by each user for a time interval; and (ii) based on the monitored network access usage, setting a **network access allowance** for each user representing a level of network access made available for utilization by the user during a future time interval, but not necessarily representing the level of network access that will be utilized by such user during the future time interval.

However, Majeti fails to disclose “**software** for managing network access of the users... based on the monitored network access usage, setting a **network access allowance** for each user...” First, nowhere in Majeti is there any mention of software for performing any function, not to mention “software for managing network access of the users.” Secondly, as recited in *Majeti* “[t]he bandwidth manager 240 also receive[s] notifications from the data service providers when a user session terminates so that the **assigned** bandwidth of that session can be **reassigned**” (col. 4, lines 48 – 52). Further, Majeti

refers to a “dynamic channel *assignment*,” and “each of the single user data units may be dynamically *tuned* to any of the *available channels*” (col. 5, lines 3 – 4). For at least the reasons stated above, Applicant asserts that claim 1 is patentable over Majeti.

B. Claim 47 is Patentable over Majeti

The Office Action indicates that claims 1 - 70 stand rejected under 35 U.S.C. §102(b) as being anticipated by European patent number EP 0742 658 A2 to Majeti, et al. (“*Majeti*”). Applicants respectfully traverse this rejection on the grounds that the *Majeti* reference does not disclose, teach, or suggest all of the claimed elements. As recited in Claim 47:

A computer-readable medium having computer-executable instructions that manage network access across a shared communications medium between competing users of a Carrier Network, said instructions performing the steps of... (b) setting a *network access allowance* for each user representing a level of network access made available for utilization by the user during a future time interval, but not necessarily representing the level of network access that will be utilized by such user during the future time interval.

However, Majeti fails to disclose “setting a *network access allowance* for each user...” As recited in *Majeti* “[t]he bandwidth manager 240 also receive[s] notifications from the data service providers when a user session terminates so that the *assigned* bandwidth of that session can be *reassigned*” (col. 4, lines 48 – 52). Further, Majeti refers to a “dynamic channel *assignment*,” and “each of the single user data units may be dynamically *tuned* to any of the *available channels*” (col. 5, lines 3 – 4). For at least the reasons stated above, Applicant asserts that claim 47 is patentable over *Majeti*.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1 – 70 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



Jeffrey R. Kuester; Reg. No. 34,367

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500